From: Greg Baker
To: Microsoft ATR
Date: 1/23/02 7:29am
Subject: Microsoft Settlement

I am a non-current resident of the USA; I may or may not be a member
of the "public" under the terms of the act, but I am a consumer of
and implementor of Microsoft products.

I do see a problem with (III)D. Notably, Microsoft is only required
to disclose APIs and documentation in order to support interoperation,
and only to IAP, ICP, ISV etc. organisations.

There are two problems here:

- generic systems implementors (who do not sell hardware and
do not write their own programs) are "out on a limb". This
constitutes a large number of the smaller consulting firms
in the USA, in Australia and in most other countries. Such
documentation of APIs and protocols is necessary and needed
in order to help such companies install and configure ISV
products, for example.

- the wording allows Microsoft to place restrictions on how the
IAPs, ICPs, ISVs, etc. may use the information. For example,
nothing prevents Microsoft from (for example) allowing access
to the MSDN only to users who promise total secrecy (or only
to those who pay large amounts of money). To continue
ad absurdum, Microsoft could choose to make available the APIs
to anyone willing to pay the billion-dollar-per-year fees for
accessing the appropriate part of MSDN -- i.e. exactly the
same situation as exists at the moment.

My suggestion to improve (III)D would be
"Starting at the earlier of Service Pack 1 for Windows XP or 12 months
after the submission of this Final Judgement to the Court,
Microsoft shall disclose documentation and APIs used by
Microsoft Middleware to interoperate with the Windows Operating
System Product. Such information will be made available in a
free and unrestricted fashion to any individuals or organisations
who request it, explicitly including their right to disclose it
to other parties."

This above clause would bring Microsoft's development practices more
in line with other software vendor's, such as Apple, IBM,
Hewlett-Packard and the open source movements and would help redress
the abuses of power that Microsoft have performed in the past.

--

Regards,
  Greg Baker
  The Institute for Open Systems Technologies
  Email: greg.baker@ifost.org.au